

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (“DEQ/AQD”), Herschler Building, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002, and Wyoming Military Department, 5500 Bishop Boulevard, Cheyenne, WY 82009-3320 (“WMD”) enter into this Settlement Agreement (“Agreement”) to fully and finally resolve the alleged violations cited in DEQ Notice of Violation Docket No. 4368-08 (“NOV”). As more fully set forth below, the NOV alleges that WMD failed to comply with the Wyoming Environmental Quality Act (“Act”) and Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations (“WAQSR”) in the renovation of the Wyoming Veterans’ Memorial Museum facility (“Facility”) located in Casper, Natrona County, Wyoming, thereby violating the Act and Chapter 3, Section 8 of the WAQSR.

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2008) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, WMD and the DEQ/AQD hereby stipulate and agree as follows:

1. The WMD operates the Facility.
2. The DEQ/AQD is responsible for enforcing the Act and the WAQSR.
3. WYO. STAT. ANN. § 35-11-201 states, “No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council.”
4. Chapter 3, Section 8 of the WAQSR establishes in part asbestos emission standards applicable to owners and operators of facilities undergoing renovation or demolition.
5. Chapter 3, Section 8(i)(i) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to “thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos,” before “the commencement of the demolition or renovation.”
6. Chapter 3, Section 8(i)(ii) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to provide the DEQ/AQD with “written notice of the intention to demolish or renovate” at least ten working days before the commencement of the demolition or renovation.
7. Chapter 3, Section 8(i)(iii) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to remove all regulated asbestos-containing

material ("RACM") from the facility being demolished or renovated before beginning any activities that would break up, dislodge or disturb the material.

8. Chapter 3, Section 8(i)(iii)(H) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to have properly trained individuals remove, handle or disturb RACM.

9. Chapter 3, Section 8(m)(ii) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to deposit all asbestos-containing waste material as soon as practical at a proper waste disposal site.

10. On or about August 11, 2008, DEQ/AQD Asbestos Inspector, Mr. Robert Rodriguez, conducted a complaint investigation of the Facility. Mr. Rodriguez was informed that prior to an asbestos inspection, floor tile and mastic had been removed during a renovation project at the Facility and the materials removed had been disposed of as normal waste at the Casper solid waste disposal site. Mr. Rodriguez also determined that WMD had not notified the DEQ/AQD before commencing the renovation activities at the Facility. The DEQ/AQD alleges that the WMD failed to thoroughly inspect the Facility prior to renovation, provide written notification of the project to the DEQ/AQD, remove all RACM by properly trained individuals prior to renovation activities that would disturb the material, or properly dispose of the asbestos-containing waste material from the Facility, thereby violating the Act and the WAQSR.

11. On September 23, 2008, the DEQ/AQD issued the NOV to WMD alleging that WMD failed to comply with the Act and the WAQSR while conducting renovation activities at the Facility.

12. Without waiving sovereign immunity or admitting any liability, WMD agrees to resolve the alleged violations described above and more fully set forth in the NOV in lieu of litigation under WYO. STAT. ANN. § 35-11-901(a)(ii) as follows:

A. Asbestos Inspection. By no later than August 1, 2010, WMD agrees to have inspected the Servicemens Club, Wyoming Veterans' Memorial Museum, 3740 Jourgensen Ave., Casper, WY 82604 and the Storage Building, 3739 Schulte Ave., Casper, WY 82604 for the presence of asbestos containing material ("ACM").

i. These inspections shall be conducted by an individual who has completed an "Inspector" or "Management Planner" training course that meets or exceeds the requirements set forth in 40 C.F.R. Part 763, Subpart E, Appendix C, or an equivalent course approved by EPA and holds current certification.

ii. These inspections shall include a review of the original "blue prints," plans, and building specifications, if they exist, visual inspections of all areas, sampling in accordance with EPA regulations, guidance and protocols, and generally accepted inspection practices.

iii. WMD shall ensure that it receives a written report of the inspections which includes a description of the inspection, an inventory of the areas where samples were taken, the results of sampling, and a description of the manner used to determine the sampling location(s).

iv. WMD shall submit a copy of each asbestos inspection report to the DEQ/AQD, Attn: Mr. Bob Gill. The inspections and reports must be completed and submitted to the DEQ/AQD and notification filed with the DEQ/AQD before any demolition or renovation activities are started on either of those buildings.

13. WMD, by entering into this Agreement, does not concede or admit to any of the factual allegations, or any liability or fault, or any waiver of sovereign immunity and this Agreement constitutes no admission of the factual allegations, liability, fault or waiver of sovereign immunity.

14. Full compliance with this signed Agreement shall constitute full satisfaction and release for all claims by the DEQ/AQD against WMD based on NOV Docket No. 4368-08 and, solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against WMD for these particular violations.

15. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the DEQ/AQD and WMD shall be incorporated by written instrument, executed and signed by DEQ/AQD and WMD.

16. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

17. This Agreement, consisting of five (5) pages, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

18. The State of Wyoming, DEQ/AQD and the WMD do not waive their sovereign immunity by entering into this Agreement and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

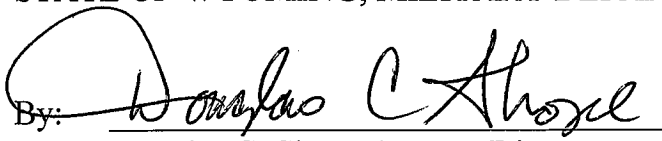
19. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement.

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20. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.


IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

STATE OF WYOMING, MILITARY DEPARTMENT:

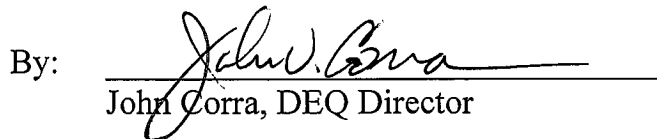
By:   
Douglas C. Shope, Deputy Director

June 14, 2010  
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY

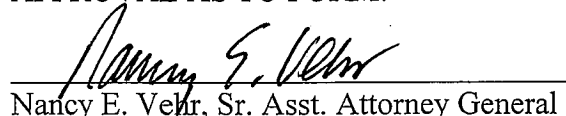
By:   
Name: STEVEN A. DIETRICH  
Acting AQD Administrator

6-16-10  
Date

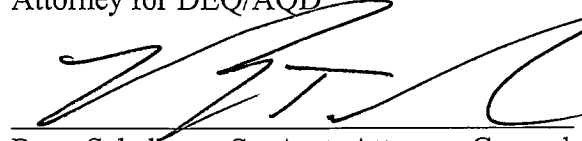
By:   
John Corra, DEQ Director

6/22/10  
Date

APPROVAL AS TO FORM:

  
Nancy E. Vehr, Sr. Asst. Attorney General  
Attorney for DEQ/AQD

5/3/10  
Date

  
Ryan Schelhaas, Sr. Asst. Attorney General  
Attorney for Wyoming Military Department

5/4/10  
Date